

Independent claim 25 recites a toy including a body, a motor within the body, an appendage coupled to the body, a tail device coupled to the body, and a neck device coupled to the body. The appendage is actuated by the motor to rotate relative to the body about a first axis. The tail device is actuated by the motor to rotate relative to the body about a second axis that is perpendicular with the first axis. The neck device is actuated by the motor to rotate relative to the body about a third axis that is parallel with the first axis.

Applicant requests withdrawal of the rejection of claims 1 and 25 because Pin-Hung fails to describe or suggest at least a tail device coupled to a body of a toy and actuated by a motor to move relative to the body, and because one of ordinary skill in the art would not have been motivated to modify Pin-Hung with the teachings of Suzuki in the manner suggested in the Office Action.

Pin-Hung relates to a climbing toy in the shape of a monkey. See Pin-Hung at abstract and Fig. 1. The toy includes a motor 11 fixed to the side of a base 43, and a limb climbing mechanism 8 that is actuated by the motor 11. See Pin-Hung at col. 2, lines 10-29 and Figs. 6 and 7. The limb climbing mechanism 8 includes a convex pad 90, 91 at an end of a spring 88, 89 attached to a connecting bar 84, 85. See Pin-Hung at col. 3, line 64 to col. 4, line 23 and Figs. 6 and 7. The connecting bar 84, 85 is mounted with a pin 86, 86 to an end of a y-shaped lever 80, 81, which is engaged with a cam wheel 30, 31 that is actuated by the motor 11. See Pin-Hung at col. 3, lines 9-22; col. 3, line 65 to col. 4, line 9; and Figs. 6 and 7. Additionally, the toy includes a board 34 that is moved up and down by a pushing bar 32 that is coupled to the motor 11. See Pin-Hung at col. 3, lines 8-22 and Figs. 2 and 11. However, Pin-Hung does not describe or suggest a tail device that is also actuated by the motor 11 to move relative to the base 43 either along a second path or about an axis.

Realizing this deficiency, the Examiner cites Suzuki and argues that

[i]t would have been obvious to one of ordinary skill in the art from the teaching of Suzuki to modify the device of Pin-Hung to include an oscillating tail in order to have a plurality of mechanisms moving in a timed relation so as to give a lifelike animation to the figure (column 3, lines 19-25).

However, the cited passage relied upon by the Examiner merely explains why Suzuki's parrot is designed with movable wings and tail. There is nothing in this passage that would motivate someone to modify Pin-Hung to include the movable tail of Suzuki. Moreover, any such motivation to modify Pin-Hung with a movable tail would alter the principle of operation of Pin-Hung's toy, and could render Pin-Hung's toy inoperable. In Pin-Hung, the angle of the toy impacts an internal mercury switch 10 such that the mercury switch 10 detects the angle of inclination of the toy to turn the motor 11 on and off as needed to affect the climbing. See Pin-Hung at col. 2, lines 30-44 and Figs. 3, 12, and 13. If Pin-Hung were modified to include a movable tail, the balance of the toy would alter, thus rendering the mercury switch 10 and climbing mechanism inoperable and at the very least would change the operation of Pin-Hung's toy. See MPEP §§2143.01 V. and VI. For at least these reasons, claims 1 and 25 are allowable over Pin-Hung and Suzuki. Claims 2-5, 7-20, 22-38 depend from claims 1 or 25, and are allowable for at least the reasons that claims 1 and 25 are allowable.

Independent claim 39 recites a toy including a body, a driving device within the body, an appendage, and a tail device. The driving device includes a drive shaft driven by a motor. The appendage is coupled to a rotating device positioned on the drive shaft to rotate relative to the body about a first axis. The tail device is coupled to the rotating device positioned on the drive shaft to rotate relative to the body about a second axis that is perpendicular to the first axis. Applicant requests withdrawal of the rejection of claim 39 because Pin-Hung fails to describe or suggest at least a tail device coupled to a rotating device positioned on a drive shaft to rotate relative to a body, and because one of ordinary skill in the art would not have been motivated to modify Pin-Hung in the manner suggested in the Office Action.

As discussed above with respect to claims 1 and 25, Pin-Hung does not describe or suggest a tail device that is coupled to a rotating device on a drive shaft to rotate relative to a body. Moreover, as also discussed above, one of ordinary skill in the art would not have been motivated to modify Pin-Hung with the tail of Suzuki. For at least these reasons, claim 39 is allowable over Pin-Hung and Suzuki. Claims 40-46 depend from claim 39, and are allowable for at least the reasons that claim 39 is allowable.

Independent claim 47 recites a method of actuating a toy. The toy includes a body, a motor within the body, an appendage coupled to the body, a tail device coupled to the body, and a neck device coupled to the body. The method includes rotating the appendage relative to the body about a first axis by actuating the motor, rotating the tail device relative to the body about a second axis that is perpendicular with the first axis by actuating the motor, and rotating the neck device relative to the body about a third axis that is parallel with the first axis by actuating the motor. Applicant requests withdrawal of the rejection of claim 47 because Pin-Hung fails to describe or suggest at least rotating a tail device relative to a body by actuating a motor, and because one of ordinary skill in the art would not have been motivated to modify Pin-Hung in the manner suggested in the Office Action.

As discussed above with respect to claims 1 and 25, Pin-Hung does not describe or suggest a tail device that is rotated relative to a body. Moreover, as also discussed above, one of ordinary skill in the art would not have been motivated to modify Pin-Hung with the tail of Suzuki. For at least these reasons, claim 47 is allowable over Pin-Hung and Suzuki.

Claim 6 has been rejected as being obvious over Pin-Hung in view of Suzuki and U.S. Patent No. 5,876,273 (DeCesare). Claim 6 depends from claim 1, which was rejected as being obvious over Pin-Hung in view of Suzuki. As discussed above, Pin-Hung does not describe or suggest a tail device coupled to a body of a toy and actuated by a motor to move relative to the body, and one of ordinary skill in the art would not have been motivated to modify Pin-Hung with the teachings of Suzuki in the manner suggested in the Office Action. Moreover, DeCesare does not remedy the failure of Pin-Hung to describe or suggest such a tail device. In DeCesare, a toy 10 is provided with a body 12 and a head 11 including a movable tongue 46. See DeCesare at col. 5, lines 13-47 and Figs. 1 and 2. However, DeCesare does not describe or suggest a tail device coupled to the body 12 and actuated to move relative to the body 12. For at least these reasons, claim 1 is allowable over Pin-Hung, Suzuki, and DeCesare, and claim 6 is allowable for at least the reasons that claim 1 is allowable.

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The fee in the amount of \$120 in payment of the one-month extension of time is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

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